

1 A. Yes.

2 Q. Have you received any communications or
3 contacts from other city employees since you became
4 a city council member concerning any issues
5 affecting the city or their department in which they
6 are employed?

7 A. You know, no. I haven't -- I can't recall
8 any from any other department.

9 Q. Is it fair to say that you have kind of an
10 open door policy as a city council member?

11 A. I do.

12 Q. And do you welcome input from all citizens,
13 including city employees?

14 A. Yes.

15 Q. So I take it you're not offended if a city
16 worker contacts you about an issue affecting the
17 city or that person's employment?

18 A. You know, the way I look at it is the fact
19 that I represent, you know, everybody that -- even
20 though they are employees of the city. I also
21 represent them because they are voters, if they are
22 voters, in the city. And so my -- you know, I
23 always have them -- I've got an open door policy.
24 And I relish people to call me. And if I can be of
25 any service to them, I try to. And if I can't, I

1 tell them.

2 Q. Shortly after this ordinance was adopted on
3 April 18, 2006, did it come to your attention that
4 Mr. Davis was fired as a result of contacting Mayor
5 Hardin about the proposed ordinance?

6 A. Yes.

7 Q. Did you have any discussions with the Fire
8 Chief, Mr. Hunter, or City Manager Roberts about the
9 firing of Mr. Davis over the situation?

10 A. I believe that we discussed it. And that's
11 when, you know -- and because I wanted to make sure,
12 you know, that the offense fit the -- what it
13 should. And when they had -- that's when they
14 really sat down and showed me, you know, that he was
15 supposed to have done this step, this step, this
16 step. But, then again, that's not my bailiwick.
17 You know, I really have no authority as far as
18 that's concerned. So --

19 Q. Was it your --

20 A. It really -- you know, it was immaterial
21 with what I thought, because it's not my call on any
22 way, form, or fashion.

23 Q. Let me ask you this, Mr. Bush. When you
24 first heard that Mr. Davis was terminated as a
25 consequence of a telephone conversation with Mayor

1 Hardin, was it your initial reaction that that
2 sounded unfair or extreme in terms of --

3 A. Probably so.

4 Q. Why do you say that?

5 A. Well, you know, sometimes without having a
6 certain amount of knowledge, you look at everything
7 a lot differently, and I couldn't see where just a
8 telephone call, you know, was -- you know, hurt
9 anything. But when you sit down and you look at the
10 way the fire department is set up and that he
11 bypassed going through the channels that he should
12 have to get to the mayor, you know, he could have
13 got permission to call the mayor.

14 Q. Permission from whom?

15 A. From the -- from his chief. I think Roy
16 Waters was there at the time, that he would have
17 been glad to have talked to him and been able to got
18 him in touch with the mayor if that's what he
19 wanted.

20 Q. Initially when you heard that he was fired,
21 did you ever voice the opinion to Mr. Roberts or
22 Chief Hunter that they ought to reconsider the
23 firing and reinstate Mr. Davis?

24 A. I don't -- I may have, but I don't remember
25 that. I really don't. You know, I know we

1 discussed it, but I don't know whether it got to the
2 point where I ever said that I feel like you ought
3 to reinstate him. Okay?

4 Q. Did you have any conversation with Mayor
5 Hardin about the firing of Mr. Davis in April of
6 2006?

7 A. I'm sure we talked about it.

8 Q. Do you remember the nature of those
9 conversations with Mayor Hardin?

10 A. Not really. I think the biggest part of
11 the -- of our discussion was the fact -- because
12 when it happened, I think the mayor was out of
13 town. I think he left and went out of town. And
14 when he came back --

15 Q. You discussed it with the mayor?

16 A. -- we talked about it.

17 Q. What was the nature of that discussion?

18 A. Oh, I can't remember, you know. And, of
19 course, it -- you know, he was a little -- I mean,
20 he didn't -- he was surprised. Let's put it that
21 way. And -- but then I think --

22 Q. Surprised over the discharge of Davis?

23 A. Yes. And I think that -- but then again, I
24 think it was the very same. I think Mayor Hardin
25 had come to the same conclusion that I did, is that

1 Mr. Roberts is the city manager, Chief Hunter is the
2 chief, and they run city business, and they run the
3 the fire department, and that they do have steps
4 that they need to go through to accomplish.

5 Q. Let me invite your attention to
6 Exhibit 23. And there's a binder of exhibits in
7 front of you, Mr. Bush, as there also is in front of
8 Mr. McKoon. And this is a letter or memo from Chief
9 Hunter to City Manager Roberts. It's dated
10 April 20, 2006. And it talks about -- and feel free
11 to take as much time as you need, Mr. Bush, to read
12 this page and a quarter letter. In fact, why don't
13 you read it to yourself? I do have a couple
14 questions about it. That would probably be faster.
15 Okay. You've had a chance to read this memo?

16 A. Uh-huh.

17 Q. You'll notice at the bottom of the first
18 page, Chief Hunter is referring to Mayor Hardin
19 about his noncompliance or lack of familiarity with
20 the merit system rules and regulations, and it
21 appears to be somewhat critical of the mayor in
22 connection with the telephone conversation he had
23 with Mr. Davis. You see where it addresses that?

24 A. I do.

25 Q. Would you agree with that, that Mayor

1 Hardin either acted improperly or was unfamiliar
2 with the merit system rules and regulations when he
3 evidently entertained the phone conversation with
4 Mr. Davis?

5 A. Well, I'm sure that he was pretty -- he --
6 that the mayor probably was, just like myself, you
7 know, since we don't come under merit system, we
8 don't study it, and says, I did not realize that,
9 you know -- I still didn't realize until I was
10 reading here that if someone does call me from the
11 fire department, then I should report it. See, I
12 did not know that.

13 Q. When is your term as a city council member
14 finished?

15 A. Next October. Or is it November 1?

16 MR. GRAHAM: I think it's November. They
17 moved it to like November 1st.

18 A. November 1st of next year.

19 Q. So is it a three- or four-year term?

20 A. Four years.

21 Q. Four-year term? Are you going to stand for
22 re-election; do you know?

23 A. Don't really know right at the time. I'm
24 kind of leaning that way, but I don't know.

25 Q. As I understood your earlier testimony when

1 you were initially running for the council, you
2 sought the support of the firefighters' local union;
3 is that correct?

4 A. Yes. When you haven't ever been elected,
5 you're hunting everywhere you can.

6 Q. Are you aware that firefighters and other
7 city employees have a First Amendment right to free
8 speech and free association?

9 A. I certainly do.

10 Q. And are you aware that they have a First
11 Amendment constitutional right, the firefighters do,
12 to belong to and support a union?

13 A. Yes, I do.

14 Q. Have you ever been a member of a union
15 yourself?

16 A. No.

17 Q. Have you ever had conversations with any
18 police officers employed by the City of Phenix City
19 concerning any issues arising within the police
20 department?

21 A. Other than the chiefs, I don't think so.
22 Other than casual conversation, you know, friendly
23 conversation.

24 Q. Let me invite your attention to Exhibit 14,
25 which is a newspaper article that came out in the

1 local newspaper, the Ledger-Enquirer, and it came
2 out in September 18, 2005. And are you generally
3 familiar with this article which addressed some of
4 the comments made by city firefighters, including
5 Mr. Davis and others, about issues in the fire
6 department?

7 A. I probably read it at the time but, you
8 know, I'm not -- I don't even know if I remember
9 this particular article. Is that in the Ledger?

10 Q. The Ledger-Enquirer.

11 A. Okay.

12 Q. It refers later in the body of this
13 article -- it's actually the third page -- where
14 evidently you were contacted by the reporter in
15 putting this article together. And they indicated
16 in part that Council Member Ray Bush tried to
17 mediate -- and I'm quoting from the article --
18 "Council Member Ray Bush tried to mediate the
19 differences between the firefighters and the city.
20 He was limited in what he could do because the
21 city's charter strictly prohibits elected officials
22 from getting involved in personnel matters."

23 Do you see where it says that?

24 A. Yes.

25 Q. Do you recall trying to meet with or

1 mediate any issues?

2 A. I had -- yes. As I said, when I first came
3 on, I talked with Bubba about several things and
4 Chief --

5 Q. Prather?

6 A. -- yes, Prather. And, you know, we talked
7 because I was trying to help; you know, if there was
8 a problem, if I could help in any way, I tried to
9 mediate it between them. But then, you know, the
10 more that I was involved, the more I realized that
11 my job as a council member, even though -- even
12 though that, you know, you can -- I had to realize
13 the limitation of what I could do, and that the fire
14 chief and the city manager, you know, it had to go
15 through the stages and come to them before it could
16 come to us.

17 Q. Okay. As I understand it based upon this
18 article, sounds like you sat down with Mr. Davis and
19 some of the firefighters' union members?

20 A. I did. At that -- I did. And as I told
21 you that I had met with them. And in the last
22 meeting that I remember, and I'm sure David does,
23 too, is that I told them that I could not do
24 anything because of the fact that the -- that our
25 city manager was the go-to person for the fire

1 department to make anything to, and that it had to
2 go through and -- and anything that I did, all it
3 did was muddy waters.

4 Q. But it sounds like, initially, you were
5 acting in good faith trying to --

6 A. Well, you know, I --

7 Q. Let me finish my question. Sounds like you
8 were acting in good faith and volunteering as a
9 mediator to sit down with the firefighters' union
10 representatives, including Mr. Davis, perhaps the
11 chief of the fire department, to see if you could
12 assist in working out some of the issues. Is that a
13 fair statement?

14 A. Well, that was -- that was my intent.

15 Q. Did you sit down separately with the
16 firefighters or was there a joint meeting with the
17 firefighters' union reps and the chiefs?

18 A. Only time I was with the firefighters was
19 at one of their meetings out at the Mexican place
20 out at -- on 280.

21 Q. And was that in connection with the issues
22 that arose in this article?

23 A. I'm sure that -- well, that's the only
24 time -- I only met with them two or three times so,
25 you know, it -- it had to be.

1 Q. Right. And this article, again, was dated
2 September 18, 2005. So it sounds like you sat down
3 and met with firefighters on these issues --

4 A. Well, that had been earlier.

5 Q. -- just before the article sometime in 2005
6 anyway?

7 A. Probably -- yes.

8 Q. So that would have been when you were a
9 city council member?

10 A. Yes.

11 Q. Did anyone tell you it was improper or a
12 violation of the merit system rules and regulations
13 or any ASOPs of the fire department for you to be
14 sitting down and discussing these issues with
15 Mr. Davis or any of the firefighters' union members?

16 A. I think somebody finally knocked it through
17 my skull that that was --

18 Q. And who knocked it through your skull?

19 A. I'm just kidding. I don't think so.

20 Q. Would that have been Bubba Roberts?

21 A. No. What I remember is that as I learned
22 what I could do and where I could go, I realized
23 that all I could do would be -- instead of trying to
24 help, as my intentions were, was that I had to go
25 through channels just like they had to go through

1 channels.

2 Q. Do you know if any -- Mr. Davis or any of
3 the other firefighter union members were subject to
4 an investigation or any discipline because they had
5 sat down with you in 2005 to discuss the issues
6 addressed in this newspaper article?

7 A. I have no -- I have -- I don't know of any.

8 Q. Bear with me for a second here.

9 Mr. Bush, I'm interested -- I'm curious. If
10 you do stand for re-election next year as a city
11 council member, as you're leaning toward doing, do
12 you expect to solicit and request the support of the
13 firefighters' union for your candidacy?

14 A. I will probably ask everybody.

15 Q. Including the firefighters' union and reps?

16 A. Yes, if they can -- you know, you ask for
17 all support.

18 Q. But again, just so the record is clear,
19 that would apparently include the firefighters'
20 union and their members as well; is that correct?

21 A. I would welcome anybody's support.

22 Q. Has anyone ever told you, including perhaps
23 the City Manager Roberts or Mr. Hunter, the chief of
24 the fire department, that the fact that some of the
25 firefighters belong to a local union has had a

1 disruptive impact on the operations and efficiency
2 of the city's fire department?

3 A. I don't know if they have. Of course,
4 you've had articles in the paper over the years of
5 things. But I don't think -- I know Chief Hunter
6 hasn't ever said that to me. And I -- and Bubba
7 Roberts, I can't recall what our conversations were
8 really. It's been -- of course, I know we discussed
9 some things and we talked about things and he tried
10 to explain to me how, you know, the fire department
11 is a paramilitary type of situation and that there
12 are steps and people -- that, you know, people can
13 go to if they have problems within the organization
14 of the fire department.

15 Q. As a city council member, are you free to
16 discuss city-related business and issues with the
17 media?

18 A. You explain to me what you mean by that.

19 Q. Well, as a city council member, do you feel
20 like you have the right to discuss with media
21 representatives -- newspaper, television, radio --
22 issues affecting the city such as the city budget,
23 operations of the fire department, adequate staffing
24 in the fire department or police department? Are
25 you free to communicate directly with the media

1 about these issues?

2 A. As a whole, yes.

3 Q. And have you done so?

4 A. Well, I've -- you know, if they asked a
5 question or whatever, you know, I answer the best of
6 my ability. And if it's concerning something we're
7 working on or whatever, you know, I still answer to
8 the best of my ability.

9 Q. And have, in fact, you been quoted and
10 viewed in newspaper articles about city-related
11 issues?

12 A. I'm sure I have.

13 Q. Before you talk to the media, do you have
14 to get the permission of the entire city council or
15 the mayor before you can talk to the media about
16 city-related business?

17 A. No. But, you know, we come to -- we are in
18 a -- we are elected. And we don't come under the
19 same rules because we don't operate under the merit
20 system. We have the opportunities to speak up or
21 speak out about most things that happen in the city
22 if we so desire.

23 Q. Concerning the city council meetings and
24 their work sessions -- you're familiar with those,
25 right?

1 A. Yes.

2 Q. As I understand it, if a citizen wants to
3 address the city council, the citizen puts in a
4 request form prior to a meeting. And if that
5 request is approved, then the citizen will address
6 the council in a work session; is that correct?

7 A. Yes.

8 Q. Do you recall, during your tenure as a city
9 council member, that any city employees have
10 requested and received approval to address the city
11 council?

12 A. Any city employee? I'm sure they have, but
13 I just -- right now I can't remember.

14 Q. Do you know if any city employees have
15 requested permission to address the city council at
16 any time and been denied permission?

17 A. No. I would not even know that.

18 Q. Do you have a current sense of what the
19 morale is like within the city fire department
20 amongst the firefighters?

21 A. Well, as far as I can tell with the guys,
22 we just -- I was just with a bunch of them at the
23 golf course, and they seemed like -- they seemed to
24 be doing pretty well.

25 Q. Was that a golf tournament?

1 A. They were doing well that day at the golf
2 tournament.

3 Q. Was that a charitable foundation?

4 A. No. It was -- the city sponsors a
5 tournament for city employees once a year.

6 Q. Some of the firefighters were there?

7 A. We had, I believe, two or three groups of
8 firefighters.

9 Q. Did you have any conversations during that
10 day or event with the firefighters about fire
11 department issues?

12 A. No.

13 MR. WOODLEY: I don't think I have any
14 further questions. Thank you, Mr. Bush.

15 MR. MCKOON: We don't have any. Thank you,
16 Ray.

17 (The deposition concluded at 12:51 p.m.)

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